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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/653,486	08/31/2000	James J. Crow	804137-US-NP	4808

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EXAMINER	
DALENCOURT, YVES	
ART UNIT	PAPER NUMBER
2457	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	09/653,486	CROW, JAMES J.	
	Examiner	Art Unit	
	YVES DALENCOURT	2457	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 August 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20 and 34-45* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20 and 34-45* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This communication is responsive to communication filed on 08/28/2009.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 08/28/2009 has been entered.

Response to Amendment

The Examiner has acknowledged the amended claims 1, 11, 34 – 37, and the submission of new claims 38 – 45.

Response to Arguments

Applicant's arguments filed on 08/28/2009 have been fully considered but they are not persuasive.

Regarding Applicant's argument (page 10) that the combination of Wang and Lechleider fails to teach of fairly suggest "wherein said determining includes directing a modem coupled to said personal computer to access a network physical layer and report data elements associated with said access to said automation agent". The

Examiner respectfully disagrees with Applicant's assertion because *Wang discloses that provisioning a user's ADSL service requires that the network 60 and the CPE 110 be provisioned in concert. Resources in the network service provider's 30 core ATM network 80 connect the user's termination on the DSLAMs 90 to particular service providers 60. Regardless of whether these resources are permanently configured or are set up on per session basis, the user's service is configured to associate the resources with the service providers 100 that the user is authorized to access (see* col. 7, line 60 through col. 8, line 40). Wang further discloses that an HTML window application may be presented at ATU-R (a generic term for a remote version of DSL equipment, such as the ADSL modem in the CEP 110) and prompted for upload service provisioning. Once "OK" is pressed, ATU-R invokes TCP/IP or UDP/IP stack to communicate with ATU-C (a generic term for a central office version of DSL equipment, such as the DSLAM) based on a client and server relationship. TCP/IP or UDP/IP packets communicate between ATU-R and ATU-C are using AAL5 which in turn using default VPI and VCI over DMT subchannels (see col. 6, lines 3 – 45).

Claim Objections

Claim 1 is objected to because of the following informalities: It is suggested to delete "direct" (line 14) and insert --- directing ---; delete "perform" (line 16) and insert --- performing ---. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1 and 11, the limitations of "direct a modem coupled to said personal computer to access a network physical layer and **report data elements associated with said access to said automation agent**" is confusing. It appears to the Examiner that such report data elements should be associated with said "**network physical layer**" instead of the "**access**". Applicant is kindly suggested to clarify this limitation.

Claims 3 and 5 recite the limitation "wherein said qualifying step" in line 1. There is insufficient antecedent basis for this limitation in the claim. A qualifying step has not previously been identified in the claims.

Claim 6 recites the limitation "wherein said carrier signal" in line 1. There is insufficient antecedent basis for this limitation in the claim since the step of qualifying has not previously been identified in the claims.

Claims 2 – 20 and 34 – 45 are necessarily rejected as being dependent upon the rejection of claims 1 and 11.

Claims 3, 5, 6, 8 are in improper form because they do not further limit any previous claims. Accordingly, the claims have not been further treated on the merits.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1 – 2, 4, 7, 9 - 20 and 34 – 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al (US 6,636,505; hereinafter Wang) in view of Lechleider et al (US 6,091,713; hereinafter Lechleider).

As per claim 1, Wang teaches a method of converting a personal computer for communicating information on a broadband communication network, said personal computer having a user and a physical location, comprising: offering levels of broadband service to said user (col. 7, lines 33 – 41); making an automation agent available to the user, the automation agent being configured to: establish a dialog with an automation server (fig. 6;see CPE Service Selection Application; column 6, lines 25 – 50; col. 7, lines 7 - 32; *Wang discloses that the adoption of ILMI for the service provisioning may enable an automated and "user friendly" service that will provide the advantages of CPE hand free configuration, integrated service management for the*

operator, enhanced end-to-end service provisioning, and reduced operator service overheads); direct a modem coupled to said personal computer to access a network physical layer and report data elements associated with said access to said automation agent (col. 6, lines 4 – 45; col. 7, line 60 through col. 8, line 40; *Wang discloses that provisioning a users ADSL service requires that the network 60 and the CPE 110 be provisioned in concert. Resources in the network service provider's 30 core ATM network 80 connect the user's termination on the DSLAMs 90 to particular service providers 60. Regardless of whether these resources are permanently configured or are set up on per session basis, the user's service is configured to associate the resources with the service providers 100 that the user is authorized to access*); and perform a workflow process tailored to a selected level of broadband service based on said data elements (col. 6, lines 46 – 65; col. 8, line 36 through col. 9, line 6); and fulfilling said order by initiating said automation agent software on said personal computer to interact with the user and thereby configure said modem for access to said broadband communication network (col. 5, lines 20-67; col. 6, lines 1-65; and col. 7, lines 17 – 52; *Wang discloses that the user modem and PC are preferably automatically configured to match the ATM network characteristics set by the network service provider*). Claim11 adds the limitation of remotely qualifying said personal computer by determining whether said personal computer meets predetermined acceptance criteria (checking client system for compatibility with broadband network; column 6, lines 66-67; column 7, lines 1-15, lines 33-67; column 8, lines 1- 41, lines 64-67; column 9, lines 1-11).

Wang discloses substantially all the limitations, but fails to specifically disclose the steps of upgrading the broadband communication network to extend broadband service boundaries into a new geographic area; updating a database to include a plurality of physical locations within the new geographic area; and accessing the database to determine whether said physical location falls within the extended service boundaries for said broadband communication network.

However, Lechleider discloses the steps of upgrading the broadband communication network to extend broadband service boundaries into a new geographic area (abstract; col. 2, lines 17 – 51; col. 7, lines 24 - 47); updating a database to include a plurality of physical locations within the new geographic area (abstract; col. 2, lines 17 – 51; col. 7, lines 24 - 47); and accessing the database to determine whether said physical location falls within the extended service boundaries for said broadband communication network (abstract; col. 2, lines 17 – 51; col. 7, lines 24 - 47).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Wang by providing the steps of upgrading the broadband communication network to extend broadband service boundaries into a new geographic area; updating a database to include a plurality of physical locations within the new geographic area; and accessing the database to determine whether said physical location falls within the extended service boundaries for said broadband communication network as evidenced by Lechleider for the purpose of determining the viability of deploying ADSL in entire areas by creating lists of

subscribers whose subscriber loop can support ADSL, thereby allowing for efficient and ubiquitous deployment of broadband services over the existing subscriber loop plant.

As per claim 2, Wang discloses that said broadband communication network is a DSL network (column 6, lines 4-12).

As per claim 4, Wang discloses that said broadband communication network is a cable network (col. 6, lines 4 – 45).

As per claim 7, Wang discloses that said user is selected for said offer based on pre-established criteria (column 5, lines 54-65; col. 6, lines 46 - 65).

As per claim 9, Wang discloses that said broadband communication network is an ISDN network (the network includes a fiber optic network; column 6, lines 4-12)

As per claim 10, Wang discloses that said broadband communication network is a wireless network (col. 6, lines 4 - 6).

As per claim 13, Wang discloses that said automation agent instantiates a narrowband modem to contact a DSL line qualification server to test a physical line (column 5, lines 49-65).

As per claim 15, Wang discloses that said automation agent is configured to initiate detection of a carrier signal from said broadband communication network (Wang; column 6, lines 13-33).

As per claim 16, Wang discloses wherein said carrier signal has signal strength and a set of error codes, and wherein said signal strength and said error codes are used by said automation agent when qualifying said personal computer (Wang column 9, lines 1-11).

As per claim 18, Wang discloses that at least some of said criteria are stored in a subscriber profile database (column 9, lines 36-55).

Claims 11 – 12, 14, 17, and 19 – 20 incorporate substantially all the limitations of claims 1 – 2, 4, 7, 9, and 10 with minor variations in the claimed language, in system form, rather than method form. The reasons for the rejections of claims 1 – 2, 4, 7, 9, and 10 apply to claims 11 – 12, 14, 17, and 19 – 20. Therefore, claims 11 – 12, 14, 17, and 19 – 20 are rejected for the same reasons.

As per claims 34 – 37, Wang discloses that an HTML window application may be presented at ATU-R and prompted for "UPLOAD SERVICE PROVISIONING". Once "OK" is pressed, ATU-R invokes TCP/IP or UDP/IP stack to communicate with ATU-C based on a client and server relationship. TCP/IP or UDP/IP packets communicated between ATU-R and ATU-C are using AAL5 which in turn using default VPI and VCI over DMT sub-channels. Either TCP or UDP is applicable for the communication (see figs. 1 – 6; col. 6, lines 25 – 33 and col. 11, lines 7 - 35).

As per claim 38, Wang discloses the conversion method as recited in claim 1, further comprising reporting said data elements to said server and modifying an automation workflow based thereon (col. 5, lines 38 – 48; Wang discloses *that the ADSL modem in the CPE 110 may be automatically provisioned as follows. The subscriber orders service from the network service provider 30 by transmitting a request over the communication channel 120 from the CPE 110 to the server130. Next, the network service provider 30 configures the network 60 for service, such as ADSL ATM service. Once the network 60 is configured, the ADSL modem in the CPE 110 is*

automatically configured for ADSL service by the server 130 over the communication channel 120).

As per claim 39, Wang discloses the configuration system of claim 11, wherein said data elements are reported to said server and an automation workflow is modified based thereon (col. 5, lines 38 – 48; Wang discloses *that the ADSL modem in the CPE 110 may be automatically provisioned as follows. The subscriber orders service from the network service provider 30 by transmitting a request over the communication channel 120 from the CPE 110 to the server130. Next, the network service provider 30 configures the network 60 for service, such as ADSL ATM service. Once the network 60 is configured, the ADSL modem in the CPE 110 is automatically configured for ADSL service by the server 130 over the communication channel 120*).

As per claim 40, Wang discloses the conversion method as recited in claim 1, wherein said data elements include a signal strength or an error code related to said access (col. 9, lines 1 - 11).

As per claim 41, Wang discloses the configuration system of claim 11, wherein said data elements include a signal strength or an error code related to said access (col. 9, lines 1 - 11).

As per claim 42, Wang discloses the conversion method of claim 1, wherein said determining includes using a narrowband modem to contact a DSL qualification server to test a physical line outside the scope of said broadband communication network (col. 5, lines 49 - 65).

As per claim 43, Wang discloses the configuration system of claim 11, wherein said determining further includes using a narrowband modem to contact a DSL qualification server to test a physical line outside the scope of said broadband communication network (col. 5, lines 49 - 65).

As per claim 44, Wang discloses the conversion method of claim 1, further comprising extending an offer to form a contract for said broadband service, wherein said automation server is configured to receive from said user via said automation agent an electronic order accepting said offer, said offer and accepting forming a contract for said broadband service, and wherein said remotely qualifying said personal computer is performed in response to said order (see figs. 1 - 6; col. 5, lines 20 - 30; col. 6, lines 25 - 33; col. 11, lines 7 - 35; *Wang discloses that an HTML window application (claimed automation agent software) may be presented at ATU-R and prompted for "UPLOAD SERVICE PROVISIONING". Once "OK" is pressed, ATU-R invokes TCP/IP or UDP/IP stack to communicate with ATU-C based on a client and server relationship. TCP/IP or UDP/IP packets communicated between ATU-R and ATU-C are using AAL5 which in turn using default VPI and VCI over DMT subchannels. Either TCP or UDP is applicable for the communication*).

As per claim 45, Wang discloses the configuration system of claim 11, wherein said automation server is further configured to receive from said user via said automation agent an electronic order accepting an offer of said broadband service extended, said offer and accepting forming a contract for said broadband service, and wherein said remotely qualifying said personal computer is performed in response to

said order (see figs. 1 - 6; col. 5, lines 20 - 30; col. 6, lines 25 - 33; col. 11, lines 7 - 35; *Wang discloses that an HTML window application (claimed automation agent software) may be presented at ATU-R and prompted for "UPLOAD SERVICE PROVISIONING". Once "OK" is pressed, ATU-R invokes TCP/IP or UDP/IP stack to communicate with ATU-C based on a client and server relationship. TCP/IP or UDP/IP packets communicated between ATU-R and ATU-C are using AAL5 which in turn using default VPI and VCI over DMT subchannels. Either TCP or UDP is applicable for the communication*).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ely et al (US Patent Number 5,574,779) discloses a method and apparatus for provisioning network services (see col. 2, lines 34 – 48; col. 4, line 36 through col. 5, line 37).

Beser et al (US 6,560,203) discloses a method for changing type-of-service in a data-over-cable system (see col. 2, lines 12 – 60).

Dieterman et al (US 6,560,203) discloses a method for automatically updating network configuration settings on a modem equipped client computer. The client establishes a connection with a service provider. The service provider determines an optimal network configuration for the client, and transmits the optimal configuration to

the client. The clients then accepts and stores the new configuration settings (see col. 2, line 66 through col. 3, line 5).

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to YVES DALENCOURT whose telephone number is (571)272-3998. The examiner can normally be reached on M-F 8-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/YVES DALENCOURT/
Primary Examiner, Art Unit 2457